

JS-6

1
2
3
4
5
6
7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 BELAVA, LLC, a California Limited
11 Liability Company,

12 Plaintiff,

13 vs.
14

15 FUJI NAILS INC., a California
16 Corporation, and PANA DEPOT INC., a
17 California Corporation,

18 Defendants.

Case No.: 2:15-cv-00882 CAS (PJWx)

**~~[PROPOSED]~~ STIPULATED CONSENT
JUDGMENT AND PERMANENT
INJUNCTION**

19
20 This Stipulated Consent Judgment and Permanent Injunction (“Consent Judgment”)
21 is entered into by and between Plaintiff, Belava, LLC (“Belava”) and Defendants, Fuji
22 Nails, Inc. and Pana Depot Inc., subject to approval by the Court.

23 On February 6, 2015, Belava initiated this action against Defendants alleging
24 infringement of U.S. Patent No. D504,178, trade dress infringement and unfair
25 competition. Belava makes and sells disposable lines for tubs used during pedicures
26 (“Belava Liners”). Belava also makes and sells the tubs for use with the liners (“Belava
27 Tubs”). The complaint arose from Defendants’ sale of disposable liners for tubs used
28

1 during pedicures (“Accused Liners”). Defendants were served with the complaint in the
2 Action on February 13, 2015. Defendants did not answer the complaint, and at Belava’s
3 request the Court entered default against Defendants. Subsequently Belava learned that
4 Defendants were offering for sale a counterfeit tub (“Accused Tub”).

5 The Defendants wish to conclude this litigation with Belava without contesting the
6 action, nor the validity or enforceability of the patent-in-suit, as well as without contesting
7 the trade dress claim.

8 Belava and the Defendants, through their respective counsel, hereby agree to entry
9 of this Consent Judgment.

10 NOW, THEREFORE, IT IS HEREBY STIPULATED, ORDERED AND
11 ADJUDGED,

12 1. This is an action for patent infringement (35 U.S.C. § 101 et seq.), trade
13 dress infringement and federal unfair competition (Lanham Act Section 43(a), 15 U.S.C. §
14 1125(a) et seq.) and unfair competition under California law (Cal. Bus. & Prof. Code §
15 17200 et seq.).

16 2. With respect to the patent and Lanham Act claims this Court has original
17 and/or exclusive jurisdiction over the subject matter of this action and the Defendants
18 under 28 U.S.C. §§ 1331 and 1338(a) and (b). This Court has supplemental jurisdiction
19 with respect to the state law unfair competition claims pursuant to 28 U.S.C. § 1367(a).
20 Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

21 3. Defendants admit that Belava is the owner of all right, title and interest in
22 and to the patent-in-suit and the trade dress associated with the Belava Liners and Belava
23 Tubs.

24 4. Defendants do not contest that the patent-in-suit is valid and enforceable.

25 5. Defendants do not contest the trade dress rights associated with the Belava
26 Liners and Belava Tubs.

27 6. Defendants represent that they have ceased all sales of the Accused Liners
28

1 and Accused Tubs.

2 7. Effective as of the date this Consent Judgment and Permanent Injunction is
3 entered by the Court, each of the Defendants, and their affiliates and their respective
4 agents, representatives, subsidiaries, directors, principals, officers, successors, assigns,
5 and all others acting in concert or participation with them, and each of them, are hereby
6 permanently enjoined and restrained from importing into the United States, making,
7 using, offering to sell and selling the Accused Liners and the Accused Tubs, as well as
8 any product that is a colorable imitation of those products or the Belava Liner or Belava
9 Tub.

10 8. The Parties shall bear their own costs and attorney fees.

11 9. This Consent Judgment constitutes a final judgment concerning the subject
12 matter of this action.

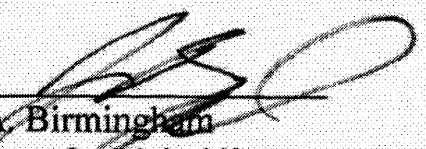
13 10. The Parties waive any right to appeal from this Consent Judgment and
14 Permanent Injunction.

15 11. This Court shall retain jurisdiction to enforce the terms and provisions of this
16 Consent Judgment and the Permanent Injunction stipulated to herein.

17
18 SO STIPULATED AND CONSENTED:
19
20
21
22
23
24
25
26
27
28


1 Dated: August 10, 2015

FITCH, EVEN, TABIN & FLANNERY LLP


3 By: 
4 Jon A. Birmingham
5 Attorney for Plaintiff
6 Belava, LLC

7 Dated: August, 2015

LAW OFFICE OF HUNG BAN TRAN

9 By: 
10 Kevin Chiu
11 Attorney for Defendant
12 Fuji Nails Inc.

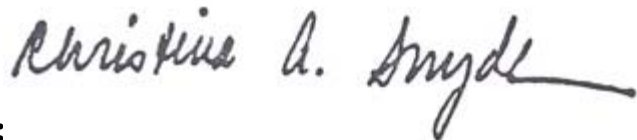
13 Dated: August 11, 2015

14 By: 
15 Cherng Hua
16 Manager for Defendant
17 Pana Depot, Inc.

18 SO ORDERED

19 Dated: August 26, 2015

20 By:

21 
22
23
24
25
26
27
28